

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

PUBLIC SERVICES – YOUTH SERVICES AND SPORTS – Reinstatement of Sri Mohd. Basheeruddin as District Sports Development Officer, District Sports Authority, Mahaboobnagar - Appeal filed by Sri Mohd. Basheeruddin - Allowed – Orders – Issued.

YOUTH ADVANCEMENT, TOURISM & CULTURE (SPORTS) DEPARTMENT

G.O.Ms.No. 42

Dated:12-03-2012

Read the following:-

- 1) Judgment dated:31-10-2007 in C.C.No.294/2006 of the Judicial Magistrate of First Class, Special Mobile Court, Mahaboobnagar.
- 2) Proceedings No. SAAP/A2/311/2005, dated:05-01-2008.
- 3) Judgment dated:22-09-2008 in Cr. A.No.172/2007 and 165/2007 of the 1st Addl. Sessions Judge, Mahaboobnagar.
- 4) Appeal dated:30-05-2010 from Sri Mohd. Basheeruddin as DSDO, District Sports Authority, Mahaboobnagar.
- 5) District Probation Officer, Mahaboobnagar, Letter No.Nil, dated:14-12-2012.

ORDER:

In the reference 4th read above Sri Mohd. Basheeruddin, former District Sports Development Officer, District Sports Authority, Mahaboobnagar appealed to the Government, requesting for his reinstatement into service with all the service benefits duly implementing the judgment dated:22-09-2008 in Cr. A.No.172/2007 and 165/2007 on the file of the 1st Addl. Sessions Judge at Mahaboobnagar, reference 3rd read above.

2. Whereas, Sri Mohd. Basheeruddin, was initially appointed as Volleyball Coach on 22-12-1984 and on promotion he was posted as District Sports Development Officer, District Sports Authority, Mahaboobnagar. During his tenure as District Sports Development Officer, one Master N.Surya Teja drowned in the Swimming Pool maintained by District Sports Authority, Mahaboobnagar on 20-05-2006 and died. A complaint was lodged by the father of the deceased against Sri Mohd. Basheeruddin, District Sports Development Officer and Sri G.Sreenivasulu the Life Saver and the same was registered as Crime No.108 of 2006 of 2 Town Police Station Mahaboobnagar and Charge Sheet was filed against them. The said case was taken up as C.C.No.294/2006 on the file of Judicial Magistrate of First Class, Special Mobile Court, Mahaboobnagar and both the accused were held guilty of offence punishable under Section 304-A of the Indian Penal Code and convicted them to undergo Rigorous Imprisonment for a period of one year with fine of Rs.1000/- against each vide Judgment dated:31-10-2007. In pursuance of the Judgment of the Judicial Magistrate of First Class, Special Mobile Court, Mahaboobnagar in C.C.No.294/2006 dated:31-10-2007, the Vice Chairman & Managing Director, Sports Authority of Andhra Pradesh has dismissed the individual from service vide proceedings No.SAAP/A2/311/05, dated:05-01-2008 in the reference 2nd read above.

3. Aggrieved by the orders of the Judicial Magistrate of First Class, Special Mobile Court, Mahaboobnagar dated 31-10-2007 Sri Mohd. Basheeruddin has filed Criminal Appeal No's.172/2007 and 165/2007 in the Court of the 1st Additional Sessions Judge at Mahaboobnagar. The First Additional Sessions Judge at Mahaboobnagar in his orders dated 22-09-2008 directed as follows:-

“ In the circumstances of the case, notwithstanding anything contained in any other law for the time being in force instead of sentencing appellants 1 and 2 to undergo any punishment, I hereby direct that they shall be released U/Sec. 4(1) of Probation of Offenders Act on their entering into a bond for Rs.10,000/- with one surety likesum each, to appear and receive sentence when called upon during two years as this court may direct and in the mean time to keep peace and good behavior, further directing that the appellants 1 and 2 / A1 & A2 shall be under the supervision of the District Probation Officer, Mahaboobnagar for two years as required U/s. 4 (3) of the Probation of Offenders Act. It is further ordered U/s 5 of the Probation of Offenders Act that the appellants A1 & A2 shall pay a compensation of Rs.25,000/- (Rupees twenty five thousand only) each to PW1 Dalitha Kishan Das for death of his son, after revision or revision time is over. In default of any of the said directions, Appellants A1 & A2 will be proceeded with further as per law.

Having ordered the appellants A1 and A2 to be released on the Probation of Offenders Act, their conviction shall not effect their service career as per section 12 of the said Act. Already paid fine of Rs.1,000/- each by the appellants 1 and 2 has to be adjusted towards the said compensation. In such an event, each appellant shall pay now Rs.24,000/- towards compensation.”.

4. In pursuance of the above judgment, the individual represented for his reinstatement into service and the Vice Chairman & Managing Director, Sports Authority of Andhra Pradesh submitted the proposal with a request to issue necessary instructions for taking further action in this regard. The Government after examination of the matter, directed the Vice Chairman & Managing Director, Sports Authority of Andhra Pradesh to file a Criminal Appeal Revision Petition in the matter without any further delay vide Memo. No.6200/S2/2008, dated 21-04-2009.

5. Sri Mohd. Basheeruddin, filed W.P. No.23594/2009 in High Court of Andhra Pradesh praying for a direction for his reinstatement into service. The Hon'ble High Court while dismissing the Writ Petition observed that the Petitioner cannot be said to have acquired any legal right for reinstatement into service by virtue of the direction issued by the learned First Additional Sessions Judge at Mahaboobnagar in Criminal Appeal Number 165/2007. Aggrieved with the orders of Hon'ble High Court in W.P.No.23594/2009 the petitioner has filed a W.A. No.388 of 2010 in A.P. High Court.

6. Subsequently, the incumbent has filed a petition for withdrawal of both the W.P. and the W.A. and the Hon'ble Court was pleased to dismiss both the W.P. & the W.A. as withdrawn vide orders dated:08-06-2010 in W.A. No.388 of 2010 and W.P. No.23594 of 2009.

7. Whereas, the individual filed an appeal before the Government requesting for his reinstatement into service with all the service benefits duly implementing the judgment dated:22-09-2008 in Cr. A.No.172/2007 and 165/2007 on the file of the 1st Addl. Sessions Judge at Mahaboobnagar.

8. The District Probation Officer, Mahaboobnagar in his letter 5th read above has reported that the offender Sri. Mohd. Basheeruddin was under his supervision as per Section 4 (i) and (iii) of the Probation of Offenders Act 1958 from 22-09-2008 to 21-09-2010 and has successfully completed the period of supervision without giving any scope for any violation of conditions prescribed for him by the court and reported that he has submitted final report to the court on 2-11-2011. Hence he has stated that the probationer has fulfilled the conditions of sections 4 and 12 of the Act.

9. The Government after careful examination of the matter and keeping in view the orders passed by the Supreme Court in some conviction cases “that a conviction on a criminal charge does not automatically entail dismissal, removal or reduction in rank of the concerned, and where a disciplinary authority comes to know that a Government Servant has been convicted on a criminal charge, it must consider whether his conduct which has led to his conviction was such as warrants the imposition of a penalty and, if so, what a penalty should be. For that purpose it will have to peruse the judgment of Criminal Court and consider all the facts and circumstances of the case and the various factors leading to his conviction.” It is observed in the instant case, the individual was dismissed on the ground of conviction in the criminal case wherein a boy was drowned in the swimming pool maintained by the District Sports Authority, in the presence of Life Saver of the swimming pool whereas the individual herein who was a Volley Ball Coach was working in the capacity of supervisory post as District Sports Development Officer (DSDO), and as such, he was not directly responsible for the incident though he was responsible for overall supervision of the pool. But his general conduct was found to be good and hence does not warrant the punishment of dismissal from service which was otherwise awarded only on the basis of his conviction in the case. It is further observed that the judgment of the 1st Addl. Sessions Judge in Criminal Appeal Nos.165/2007 and 172/2007 has become final by efflux of time, as no Criminal Appeal has been filed against the orders of the 1st Additional Sessions Judge at Mahaboobnagar in Criminal Appeals No.172 of 2007 and 165 of 2007 dated:22-09-2008 and therefore the provisions contained in Section 12 of the Probation of Offenders Act 1958 have to be complied with.

10. In the light of the above and since conditions of sections 4 and 12 of the Probation of Offenders Act 1958 are fulfilled as per the report submitted by the District Probation Officer, Mahaboobnagar, Government hereby set-aside the proceedings No.SAAP/A2/311/05, dated:05-01-2008 issued by the Vice Chairman and Managing Director, Sports Authority of Andhra Pradesh, Hyderabad. The appeal is accordingly allowed.

11. The Vice Chairman and Managing Director, Sports Authority of Andhra Pradesh shall take necessary action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

VASUDHA MISHRA

PRINCIPAL SECRETARY TO GOVERNMENT

To

The Vice Chairman and Managing Director,
Sports Authority of Andhra Pradesh, Hyderabad. (we)

Copies of DPO's report.

Sri Mohd. Basheeruddin

through Vice Chairman and Managing Director,
Sports Authority of Andhra Pradesh,
Hyderabad.

The District Sports Development Officer,
Mahaboobnagar.

The District Probationary Officer, Mahaboobnagar.

The District Collector,

Mahaboobnagar.

The Accountant General,

Andhra Pradesh,

Hyderabad.

The District Treasury Officer,

Mahaboobnagar.

Copy to:

The Addl. Secretary to Chief Minister.

The OSD to Minister (YAT&C).

The PS to Secretary (YS&S).

The Law (J) Department.

SF/SC-4.

// FORWARDED :: BY ORDER //

SECTION OFFICER